

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I and the amendment of ARM 12.11.501 pertaining to limiting Tepee Lake to manually operated watercraft) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT)

TO: All Concerned Persons

1. On January 5, 2021, at 2:00 p.m., the Fish and Wildlife Commission (commission) will hold a telephonic public hearing via ZOOM meeting platform to consider the proposed adoption and amendment of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis by the novel coronavirus, COVID-19, there will be no in-person hearing. Interested parties may access the remote conferencing in the following way:

(a) Dial by telephone, 1-646-558-8656
Meeting ID: 915 2053 0099
Password: 347307

The hearing will begin with a brief introduction by staff to explain the use of the telephonic platform. All participants will be muted except when it is their time to speak.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on December 31, 2020, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I TEPEE LAKE (1) Tepee Lake is located in Flathead County.
(2) Tepee Lake is limited to manually operated watercraft.

AUTH: 87-1-303, MCA
IMP: 87-1-303, MCA

4. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

12.11.501 LIST OF WATER BODIES The following is a list of specific regulations on bodies of water with the reference where the rules regarding those bodies of water are located:

(1) through (109) remain the same.

(110) Tepee Lake [NEW RULE I]

(110) through (120) remain the same but are renumbered (111) through (121).

AUTH: 87-1-301, 87-1-303, MCA

IMP: 87-1-303, MCA

REASON: At their November 18, 2020 meeting, the commission initiated rulemaking on a petition to limit Tepee Lake to manually operated watercraft. The petition was submitted by Rachel Potter on behalf of co-petitioners Kurt Borge, Michael Borge, Marguerite Kaminiski, and Charles Potter. The commission also received a letter in support of the petition by the Montana Loon Society.

The petition states that the lake is a 43-acre, shallow and fishless lake located in the North Fork of the Flathead. The petition acknowledges that there have been no current or past motorized use on the lake, but that unless a rule is made, it is inevitable that eventually a motorboat or jet ski will be put on the lake. The petition states that this would lead to loss of a rustic and quiet lake with loons and other wildlife, loss of a precious piece of North Fork heritage, loss of secure nesting habitat for the Common Loon, and loss of water quality, as the lake is shallow with no perennial surface inlet or outlet. The petition describes both the human history and natural history of the lake. The petition states that as more and more people are flooding to the North Fork, it is only a matter of time before a motorboat or jet ski is put on the lake. The petition advocates for a rule to be implemented before a conflict occurs.

The commission is proposing to amend ARM 12.11.501 and adopt NEW RULE I to limit Tepee Lake to manually powered watercraft pursuant to the petition.

5. Concerned persons may submit their data, views, or arguments orally at the telephonic hearing. Written data, views, or arguments may also be submitted to: Phil Kilbreath, Department of Fish, Wildlife and Parks Enforcement Division, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail pkilbreath@mt.gov, and must be received no later than January 8, 2021.

6. Kaedy Gangstad or another hearing officer appointed by the department has been designated to preside over and conduct the hearing.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to: Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be emailed to kgangstad@mt.gov.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the commission has determined that the adoption and amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Rebecca Dockter
Rebecca Dockter
Rule Reviewer

/s/ Shane Colton
Shane Colton
Chair
Fish and Wildlife Commission

Certified to the Secretary of State December 1, 2020.